

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE NOTHERN DISTRICT OF TEXAS**

3 **BEJA PARKS,**

4 Plaintiff,

5 **v.**

6 **SOUTHWEST RECOVERY**
7 **SERVICES, INC.,**

8 Defendant.

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Civil Action No.

Jury Trial Demanded

9
10 **COMPLAINT**

11 BEJA PARKS (“Plaintiff”), by her attorneys, KIMMEL & SILVERMAN, P.C., allege
12 the following against SOUTHWEST RECOVERY SERVICES, INC. (“Defendant”):

13 **INTRODUCTION**

14 **1.** Plaintiff’s Complaint is based on Defendant’s repeated violations of the Fair Debt
15 Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (“FDCPA”).

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17 **JURISDICTION AND VENUE**

18 **2.** Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states
19 that such actions may be brought and heard before “any appropriate United States district court
20 without regard to the amount in controversy;” 28 U.S.C. § 1331 grants this court original
21 jurisdiction of all civil actions arising under the laws of the United States.

22 **3.** Venue is proper pursuant to 28 U.S.C. § 1391 (b)(1) and (b)(2).

23
24 **PARTIES**

25 **4.** Plaintiff is a natural person residing in Fort Worth, Texas 76133.

5. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. § 1692a(3).

6. In the alternative, Plaintiff is a person granted a cause of action under the FDCPA. See §1692(k)(a) and Wenrich v. Cole, U.S. Dist. LEXIS 18687 (E.D. Pa. Dec. 22, 2000).

7. Defendant is a corporation with its principal place of business located at 17311 Dallas Parkway, Suite 235, Dallas, Texas 75248.

8. Defendant is a “debt collector” as that term is defined by 15 U.S.C. §1692 a(6), and sought to collect a debt from Plaintiff.

9. At all relevant times, Defendant acted as a “debt collector” within the meaning of 15 U.S.C. § 1692(a)(6), and attempted to collect a “debt” as defined by 15 U.S.C. § 1692(a)(5).

10. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

11. At all relevant times, Defendant was attempted to collect a consumer debt and contacted Plaintiff in its attempts to collect that debt.

12. Upon information and belief, Plaintiff never incurred any debt in connection with a business or commercial activities, and therefore the debt, if truly an obligation owed by her, could only have arisen from a financial obligation primarily for personal, family, or household purposes.

13. Beginning in February 2016 and continuing through June 2016, Defendant's collectors repeatedly and continuously placed calls to Plaintiff's cellular telephone number on a repetitive and continuous basis.

14. Plaintiff received collection calls from telephone numbers including, but not limited to (214) 387-8068. The undersigned has confirmed the number as belonging to

1 Defendant.

2 15. Defendant's collectors were attempting to contact an unknown third party named
3 "Lamecia Lemons" (phonetic).

4 16. In April 2016, Plaintiff spoke to Defendant and stated that they had the wrong
5 number, stop calling her, and to put her number on a do not call list.

6 17. In response to Plaintiff's request to stop calling, Defendant simply hung up on
7 Plaintiff.

8 18. Once Defendant was informed that it was calling the wrong party, that its calls
9 were unwanted, and to stop calling, there was no lawful purpose to making further calls, nor was
10 there any good faith reason to place calls.

11 19. Defendant failed to update its records to restrict calls to Plaintiff's cellular
12 telephone.

13 20. Defendant continued to call Plaintiff's cellular telephone through June 2016.

14 21. Defendant contacted Plaintiff before 8:00 A.M. local time during the month of
15 May 2016.

16 22. After Plaintiff's request to stop the calls was ignored by Defendant, she had no
17 other option but to install a blocking application on her cellular devise to block calls from
18 Defendant's phone number.
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21 **COUNT I**
22 **DEFENDANT VIOLATED § 1692c(a)(1) OF THE FDCPA**

23 23. Section 1692c(a)(1) of the FDCPA prohibits debt collectors from communicating
24 with the consumer before 8:00 A.M. and/or after 9:00 P.M. local time at the consumer's
25 location.

24. Defendant violated this section when it contacted Plaintiff before 8 AM during

1 the month of May 2016 at a time known to be inconvenient to receive calls.

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3 **COUNT II**
4 **DEFENDANT VIOLATED § 1692d OF THE FDCPA**

5 25. Section 1692d of the FDCPA prohibits debt collectors from engaging in any
6 conduct the natural consequence of which is to harass, oppress, or abuse any person in
7 connection with the collection of a debt.

8 26. Defendant violated § 1692d when it called Plaintiff repeatedly and continuously
9 and when it continued to call Plaintiff even after being informed that it had the wrong number
10 and to stop calling her immediately in April.

11
12 **COUNT III**
13 **DEFENDANT VIOLATED § 1692d(5) OF THE FDCPA**

14 27. Section 1692d(5) of the FDCPA prohibits debt collectors from causing the
15 telephone to ring or engaging any person in telephone conversation repeatedly with intent to
16 annoy, abuse or harass.

17 28. Defendant violated §1692d(5) when it continued to call Plaintiff's cellular
18 telephone multiple times each day despite Plaintiff's clear instruction that Defendant had a
19 wrong number and to stop calling her in April 2016.

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21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiff, BEJA PARKS, respectfully prays for a judgment as follows:

- 23 a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1) and 47
24 U.S.C. §227(b)(3)(A);
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